IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4512 OF 2007

Shri Tatyasaheb Kore Warna
Sahakari Sakhar Karkhana Ltd ...Petitioner

Versus

The Collector, Sangli & Anr. ...Respondents

Shri V.B.Rajure for the Petitioner.
Shri Umesh R. Mankapure for the Respondents.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 26, 2007.

P.C.:

1. Heard learned Advocates appearing for the parties. The challenge in this Writ Petition is to the order dated 14th May, 2007 passed by the Collector under Rule 6(4) of the Maharashtra Specified Co-operative Societies Elections to Committee Rules, 1971 (hereinafter referred to as the said Rules). The Petitioner is a registered Co-operative Society. The Petitioner claims to be a member of the second Respondent which is also a Co-operative Society. The election of the Managing Committee of the second Respondent is scheduled to be held in near future. As per the said Rules of 1971, a programme for preparation of list of voters was declared by the Collector. An objection was raised by the Petitioner on account of the exclution of the name of the Petitioner from the draft list of voters. By the impugned order, an adjudication has been made by the Collector on the said objection

holding that the membership of the Petitioner has been cancelled in the meeting of the Managing Committee of the second Respondent held on 06th November, 1996. The Collector rejected the objection raised by the Petitioner by observing that no proceedings taken out by the Petitioner were pending as regards the decision of the disqualification taken on 06th November, 1996.

2. The Petitioner had filed a dispute in the Co-operative Court praying for a declaration that the resolution dated 06th November, 1996 passed by the second Respondent was illegal and was not binding on the Petitioner. An Application for interim relief made in the said dispute was disposed of by order dated 19th January, 1997 passed by the learned Judge of the Co-operative Court. On 22nd March, 2001 the dispute was dismissed in default by the Co-operative Court. An Appeal was preferred by the Petitioner for challenging the dismissal of the dispute. In the said Appeal, there was a delay and therefore an Application for condonation of delay was filed by the Petitioner. In the said Application, an application for interim relief was taken out by the Petitioner which was decided on 16th October, 2001. By the said order, the Appellate Court restrained the second Respondent from obstructing the Petitioner from exercising its membership right in any manner till further orders. The said order was challenged by the

second Respondent in this Court by filing a Writ Petition. Though this Court did not interfere with the said order, the Appellate Court was directed to decide the Application for condonation of delay in Appeal. By order dated 19th June, 2002, the Application for condonation of delay was allowed by the Appellate Court subject to payment of costs of Rs.1,000/-. The Appeal was ordered to be registered on payment of costs. By order dated 24th September, 2004 the Application for condonation of delay was dismissed for non compliance with the order regarding payment of costs.

3. The submission of Shri Rajure appearing for the Petitioner is that though the Application for condonation of delay was dismissed on 24th September, 2004, the Appellate Court did not vacate the order of interim injunction passed on 16th October, 2001. He submitted that this Court has not interferred with the order dated 16th October, 2001 and had directed the Appellate Court to decide the Application for condonation of delay. He submitted that the order dated 16th October, 2001 is a independent order and unless the said order is set aside, the parties will be bound by the said order. He, therefore, submitted that the Collector has committed an error by holding that there was no interim relief operating as regards the resolution passed by the second Respondent removing the

Petitioner from membership. I have considered the submissions. The order dated 16th October, 2001 has been passed on Application at Exhibit 5 taken out in Application No.88 of 2001. As there was a delay in preferring the Appeal, the Appellate Court had not numbered the Appeal and the Application for condonation of delay was numbered as Application No.88 of 2001. It is obvious that order dated 16th October, 2001 was to operate during the pendency of the Application for condonation of delay. On that day, the Appeal was not in existence in as much as the delay in preferring the Appeal was not condoned. The result of the order dated 24th September, 2004 is that the Application for condonation of delay stands A dismissed. As a consequence, all orders which were passed pending the said Application for condonation of delay have been vacated. The order dated 16th October, 2001 was only an interim order pending the Application for condonation of delay. It is obvious that the said order will not operate from 24th September, 2004. In view of this legal position, the Collector committed no error when he relied upon the resolution passed by the second Respondent by which the membership of the Petitioner was cancelled.

4. There is no merit in the Petition and the same is disposed of.

JUDGE